Filed 3/2/15 In re K.W. CA3

NOT TO BE PUBLISHED

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

In re K.W. et al., Persons Coming Under the Juvenile Court Law. SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES, Plaintiff and Respondent, v. A.W., Defendant and Appellant.	C076526 (Super. Ct. Nos. JD229602, JD229603) ORDER MODIFYING OPINION AND DENYING PETITION FOR REHEARING [NO CHANGE IN JUDGMENT]

THE COURT:

It is ordered that the opinion filed herein on February 9, 2015, be modified as follows.

At page 15, in the fourth line of the first full paragraph, delete the sentence that reads, "As explained by the juvenile court, J.W. has sexualized behavior problems." and replace it with the following, so that the sentence now reads,

> As explained by the juvenile court, J.W. has a history of sexualized behavior problems.

As modified, appellant's petition for rehearing is denied. There is no change in judgment.

BY THE COURT:

BLEASE, Acting P. J.

NICHOLSON, J.

BUTZ, J.

Filed 2/9/15 In re K.W. CA3 (unmodified version)

NOT TO BE PUBLISHED

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

In re K.W. et al., Persons Coming Under the Juvenile Court Law.	C076526
SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES, Plaintiff and Respondent, v. A.W., Defendant and Appellant.	(Super. Ct. Nos. JD229602, JD229603)

A.W., the presumed father of minors K.W. and J.W.,[1] appeals from the juvenile court's orders terminating his parental rights. (Welf. & Inst. Code, §§ 366.26, 395.)[2] He contends substantial evidence does not support the juvenile court's finding that awarding him custody would be detrimental to the minors. He also contends that, in making its

[1] A.W. is the biological father of J.W.

[2] Undesignated statutory references are to the Welfare and Institutions Code.

finding, the juvenile court erroneously relied on federal law and unfairly penalized him for the delay in reaching permanency for the minors. We reject father's contentions and affirm.

BACKGROUND

This is father's fourth appeal in his children's dependency case. We take much of the following pertinent facts from our prior nonpublished opinions—*In re K.W.* (Apr. 10, 2014, C072101), *In re K.W.* (Feb. 6, 2014, C073743), and *In re K.W.* (June 26, 2013, C071770).

On April 22, 2009, the Sacramento County Department of Health and Human Services (the Department) filed section 300 petitions on behalf of minors D.W. (then age seven), J.W. (then age five), and K.W. (then age one), based on mother's substance abuse problems and failure to protect and care for the minors.[3] Although father is not the biological father of K.W., he was found to be the presumed father of all three minors. Father had been incarcerated since November 2007 for physically assaulting mother while she was pregnant with K.W. Father's criminal history included six felonies, parole violations, and 11 misdemeanors, for offenses such as assault to commit rape, kidnap with use of a firearm, battery, theft, failure to register as a sex offender, and inflicting corporal injury on a cohabitant. The juvenile court sustained the petitions and provided mother with family maintenance services. When father initially appeared, he indicated through counsel that he was not seeking placement or services, and the court designated him a "*Robert L.* father"—a nonoffending, noncustodial parent not seeking services or placement of the children. (See *Robert L. v. Superior Court* (1996) 45 Cal.App.4th 619, 626.) The minors had not visited father since his incarceration and the juvenile court ordered no contact, finding visitation with him would jeopardize the minors' safety.

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[3] This appeal relates only to minors J.W. and K.W.

Mother did not participate in services and, on January 14, 2010, the minors were ordered removed from her home. Father's counsel inquired about reunification services and requested visitation. The juvenile court reaffirmed its previous orders and noted any change to those orders would require that father file a petition for modification.

In October 2010, the social worker reported that all three minors were displaying aggression and K.W.'s speech was delayed. D.W. and J.W. were in therapy and D.W. was demonstrating sexualized behavior toward his siblings. The social worker also reported that there had been no contact from father, that he had not inquired about the minors' well-being nor requested pictures or information about how the minors were doing.

In January 2011, the social worker assessed the minors were not generally adoptable. K.W. had a significant language delay for which he was receiving services and presented as hyperactive and aggressive. J.W. had a history of being the victim of sexual activity/behavior and acted provocatively, especially in her interactions with D.W. D.W. acted out sexually toward J.W. Only minimal progress on these issues had been made in therapy to date. Accordingly, the minors needed to be separated in their placement, with D.W. residing in a different home than his siblings. A placement change took place on January 7, 2011.

Father was briefly released from custody in January 2011 and asked to visit D.W. and J.W., but not K.W., all of whom were then in foster care. The juvenile court ordered continued letter contact only. In April, the court held a progress hearing to address visits for father. By then, father was back in custody, and the court ordered no change to the current orders.

In May 2011, father was released from custody and, again, requested visitation. He reported he was employed as a painter and provided proof of attendance of several classes he took while incarcerated, including anger management and domestic violence,

substance abuse, and parenting. The Department recommended supervised visits and filed a modification petition, but later withdrew the request.

In August 2011, father filed petitions to modify requesting reunification services and a general visitation order. In support of his petitions, he stated, in pertinent part, "The father's position is that having a goal of return home to his care is the best permanent plan for the children. Similarly, it is in the best interest of the children to see and have a relationship with their father." The juvenile court denied the petitions without a hearing, finding they did not state new evidence or a change of circumstances and did not promote the minors' best interests.

On June 6, 2012, the Department determined that K.W. and J.W. were specifically adoptable and decided to recommend the setting of a section 366.26 hearing for those minors. As for D.W., although he had shown remarkable progress in his current placement, he still had peer aggression problems and remained a child with emotional needs. The social worker was uncertain whether D.W. "could sustain the disappointment of a failed reunification effort with his mother." D.W. was determined to be specifically adoptable but his current home was not interested in providing permanency.

On August 3, 2012, father filed new petitions to modify requesting reunification services and visitation, and a hearing. He stated, in pertinent part, "At the time no reunification services were ordered, [he] was incarcerated. While incarcerated, he participated successfully in many services. . . . Since he has been released, he has worked consistently and led a stable lifestyle." He added that he was willing and able to "parent" the minors, and that he was "able to provide care" for them.

The juvenile court (Hon. Dean L. Petersen) denied the petitions without a hearing. We affirmed that order, holding (in summary) that the juvenile court did not abuse its discretion in finding the section 388 petitions did not allege changed circumstances and that the modification father sought was not in the minors' best interests.

In August 2012, the Department again recommended visits for father. After a hearing, the juvenile court denied father's request for visits and maintained the no-contact order, finding as to J.W. that "it would be detrimental for [J.W.] to reestablish a relationship only then to be looking at terminating the relationship." The court set a selection and implementation hearing for K.W. and J.W.

After multiple continuances, a contested selection and implementation hearing for K.W. and J.W. commenced in April 2013. Father joined in mother's assertion of the beneficial parent-child relationship exception to adoption and in the sibling relationship exception to adoption as it related to D.W. He also renewed his objection to the no-contact orders.

On May 2, 2013, the juvenile court found J.W. and K.W. adoptable, found no exception to adoption applied, and terminated parental rights as to both minors. Father appealed, contending the juvenile court had erred in terminating his parental rights without finding at any time, by clear and convincing evidence, that awarding custody of the minors to him would be detrimental to the minors. Concluding that such a finding is constitutionally required and was not apparent in the record, we reversed the juvenile court's orders and remanded for hearing in the juvenile court, instructing, "If the juvenile court determines, by clear and convincing evidence, that awarding custody of the minors to father would be detrimental to the minors, the orders shall be reinstated. If a different determination is made, the orders shall remain vacated and the juvenile court shall proceed accordingly."

The Department filed a report in March 2014, and the social worker testified at the April 24, 2014 hearing on remand. J.W. and K.W. were doing well in foster care and were no longer attending therapy. J.W. has not lived with father since 2007, when she was four years old, and has no relationship with him. K.W. has never lived with father and does not know him. Since father had never requested placement of the minors, the

social worker expressly asked him if he wanted placement of the minors in his care at this time. Father responded that he wanted a relationship with his children and recognized that removing them from their current placement would be detrimental to them. Father said he wanted to have a relationship with J.W. and K.W. like the kind he has with D.W.—who he visits twice a month for one to six hours. He wanted contact of some sort and to get to know the minors, but reiterated that he was not seeking placement. He said he may seek placement of them in the future, but was not doing so at this time.

Father was asked why, at the time of his incarceration and knowing that the minors' mother was using drugs, he had not found a safe place for the minors. Father responded that he had no one to ask, as his remaining family members lived in Arkansas. Although father claimed to be a "changed man" since his assault with intent to commit rape conviction 30 years ago, he had since committed numerous misdemeanors, resulting in jail time, and four felonies, including failure to register as a sex offender and the corporal injury upon his spouse, the minors' mother, in 2007.

The social worker also noted that father had recently moved into his girlfriend's apartment, without the knowledge of the apartment manager. Despite being a drug and sex offender registrant, he then reported an incorrect address to the dependency court, his attorney, his parole officer, and the sheriff's office. As a result of the incorrect address he provided, father was difficult to locate. Father was employed through The Eternity Challenge—an organization that renovates houses, but was receiving temporary disability for a back, knee, and hip injury.

Father reported having completed domestic violence classes, but no other therapeutic course or counseling. The social worker felt specialized counseling or instruction on dealing with children who have been abused or presented with sexual abuse issues was important in this case and father had not participated in any such services. The social worker also discussed how bonded the minors were in their current

home. The social worker recommended finding, by clear and convincing evidence, that placement with father would be detrimental to the minors.

Father testified at the hearing. He did not deny that he had never sought placement of the minors. When asked why he had not requested placement, father responded that he had requested services so that, "in the event that the opportunity did present itself that [he] could get [his] children," they would know who he was. With respect to having provided an incorrect address, he claimed his girlfriend had given him the wrong address (with transposed street numbers), and he was not aware of the mistake until the social worker and his parole officer confronted him. D.W.'s foster father testified that he had supervised and observed father's approximately 20 visits with D.W. and had not seen anything that would raise a concern that father was an inappropriate parent. The visits were primarily playing, watching sports, and talking about school. The foster father had been told father had been convicted of felony kidnapping, was required to register as a sex offender, and had a history of drug and violent offenses. He did not know that father had failed to properly register on multiple occasions and believed the sex offense that resulted in father's registration requirement was an "alleged touching" of a young lady.

At the conclusion of the hearing, the juvenile court found, by clear and convincing evidence, that placement with father would be detrimental to the safety, protection, physical, and emotional well-being of the minors. It then reinstated the prior findings and orders terminating parental rights.

DISCUSSION

As we explained in our prior opinion, "Parents have a fundamental interest in the care, companionship, and custody of their children. (*Santosky v. Kramer* (1982) 455 U.S. 745, 758 [71 L.Ed.2d 599].) *Santosky* establishes minimal due process requirements in the context of state dependency proceedings. 'Before a State may sever completely and

irrevocably the rights of parents in their natural child, due process requires that the State support its allegations by at least clear and convincing evidence.' [Citation.] 'After the State has established parental unfitness at that initial proceeding, the court may assume at the *dispositional* stage that the interests of the child and the natural parents do diverge.' [Citation.] 'But until the State proves parental unfitness, the child and his parents share a vital interest in preventing erroneous termination of their natural relationship.' " (*In re Gladys L.* (2006) 141 Cal.App.4th 845, 848; accord, *In re Frank R.* (2011) 192 Cal.App.4th 532, 537.)[4]

In the average case, where both parents are known, or become known, during the reunification period and repeated findings that placing or returning the child to the parent would be detrimental to the child have been made, no further finding of detriment is required at the section 366.26 hearing. However, to comport with due process, such a finding must be made at some point in the dependency *prior* to termination of parental rights. (*In re Gladys L.*, *supra*, 141 Cal.App.4th at pp. 848-849.)

In this case, however, father is a noncustodial, nonoffending parent. He was incarcerated when the minors were removed from mother's custody and did not seek placement at that time. Having not sought custody of his children during the pendency of these proceedings, the juvenile court failed to make the finding that placement with father would be detrimental to the minors.[5] Accordingly, we remanded to the juvenile court for a hearing and determination of the issue.

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[4] California's dependency scheme does not use the term "parental unfitness," requiring instead that the juvenile court find that awarding custody of a dependent child to a parent would be "detrimental to the child." (*In re Dakota H.* (2005) 132 Cal.App.4th 212, 224, fn. 3.)

[5] Section 361.2, subdivision (a) provides, in relevant part, "When a court orders removal of a child pursuant to Section 361, the court shall first determine whether there is a parent of the child, with whom the child was not residing at the time that the events or

After the hearing on remand, the court indicated that, in addition to considering the evidence presented in connection with the remand hearing, it had also reviewed the entirety of the juvenile court file for each child. It further stated that the presumption was that placement of the minors in father's custody would be to the minors' benefit, that it was the Department's burden to provide clear and convincing evidence that such a placement would be detrimental, and that, "[b]ased on the totality of circumstances that exist in this case," that burden had been met. The juvenile court then provided a lengthy explanation for its finding that it would be detrimental to place the minors in father's custody.

First, the court noted father has a significant criminal history with the justice system, including convictions for battery, grand theft, drug offenses, kidnapping with use of a firearm, and assault with intent to commit rape. Father continued to commit felonies even after becoming a father and his convictions demonstrate violent and unpredictable behavior.

Second, the court commented that California had recently expanded section 361.5 to allow a bypass of reunification services for a parent who has been required to register as a sex offender under the federal Adam Walsh Child Protection and Safety Act of 2006 (hereafter Adam Walsh Act; 42 U.S.C. § 16913(a)). (§ 361.5, subd. (b)(16).) Recognizing that bypassing reunification services under section 361.5 and a finding of detriment under section 361.2 were different assessments, the court commented that the provision for bypass offered some "assistance," and further concluded the federal law

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conditions arose that brought the child within the provisions of Section 300, who desires to assume custody of the child. If that parent requests custody, the court shall place the child with the parent unless it finds that placement with that parent would be detrimental to the safety, protection, or physical or emotional well-being of the child." In order to deny placement, the court must find detriment by clear and convincing evidence. (*In re Abram L.* (2013) 219 Cal.App.4th 452, 461.)

authorized termination of parental rights as to the surviving children of a parent convicted of one of the listed felonies. The court then stated that, "[t]herefore, under federal law, it appears that [father's] criminal history requiring him to be a registered sex offender would constitute grounds to terminate his parental rights. That is not the only evidence that exists in this case."

Third, the court next considered what father had done to demonstrate that he has rehabilitated from his criminal lifestyle. The court noted he maintained his freedom for a few years and engaged in some services, but then emphasized there was no evidence that any of the services were sufficiently sex offender related—*despite* being told by the juvenile court in connection with his earlier request for services and visitation that such services would be critical if he wanted to increase his involvement with the minors. Furthermore, the court found that father had previously been found in violation of his registration requirement and was not even in compliance with his registration requirement at the time of the hearing.

Fourth, the court found father's reincarcerations for parole violations during the pendency of the dependency proceedings, even when his children were in foster care, to demonstrate a lack of desire, willingness, or ability to provide care for his children.

Fifth, the court next considered the parenting father had demonstrated before and after the court's involvement, resulting in the suffering of his children. Father had been involved in J.W.'s upbringing and she came into the system requiring extensive therapy to address sibling interactions that were the direct result of poor parenting. The court further noted that father had recently moved in with his girlfriend and did not even know his address (despite being required to register it), which suggested a lack of stability and ability to meet the minors' needs.

Sixth, father had also had little contact with the minors since his incarceration, due entirely to father's own criminal behavior. When he was finally permitted letter contact,

he wrote to J.W. and D.W., but not to K.W. He did not seek information on how the children were doing nor maintain regular contact with the social worker to obtain such information. He has no bond with J.W. and has never even met K.W. Father had been present and represented by counsel at every hearing and never sought placement of the minors. The court found that, "[w]ithout a doubt, it would be detrimental to foist children to an unwilling parent. Put into the mix a parent that has demonstrated antisocial criminal behavior and failure to comply with court orders. There is ample evidence that [father] is being forced to care for children with difficult behaviors, including inappropriate sexual behavior between the sibling[s], specific therapeutic needs, and not having addressed his own status as a registered sex offender."

Seventh, and finally, the minors are years into dependency and significantly bonded with their foster parents. And while that is not a sufficient reason to find placement with father detrimental, a sudden move at this late date into the home of a man they do not know would have an emotional impact on the minors.

The court concluded that it had, on multiple occasions, found that even contact with father would be detrimental to the minors. "For all these reasons," placement with him would be even more detrimental.

I. Juvenile Court Did Not Improperly Rely on Federal Law

Father contends the juvenile court improperly relied upon a federal statute, title 42 United States Code section 5106a(b)(2)(B)(xvii), which does not apply, as grounds for terminating his parental rights. Father argues that the statute does not provide any grounds for terminating his parental rights because he did not commit any of the listed felonies. Regardless of whether the juvenile court was correct in its belief that federal law would permit termination of father's parental rights based on one of his prior convictions, father greatly overstates the juvenile court's reliance on the federal statute in making its finding of detriment at this hearing.

As we set forth above, the juvenile court commented that California had recently expanded section 361.5 to allow a bypass of reunification services for a parent who has been required to register as a sex offender under the federal Adam Walsh Act (42 U.S.C. § 16913(a)). (§ 361.5, subd. (b)(16).) Father does not dispute that his status as a sex offender registrant permits the bypass of reunification services under section 361.5. The juvenile court then expressly recognized that bypassing reunification services under section 361.5 and a finding of detriment under section 361.2 were different assessments, and stated that it was looking to the provision for bypass as offering some "assistance." There is no claim of error assigned to the court's consideration of section 361.5 in this regard either.

It is the juvenile court's further conclusion that the federal law (42 U.S.C. § 5106a(b)(2)(B)(xvii)) authorized termination of parental rights as to the surviving children of a parent convicted of a felony such as father's, with which father takes issue. He maintains the crime resulting in his sex offender registration requirement is not one of the listed felonies and, therefore, the juvenile court incorrectly found it could constitute grounds to terminate his parental rights. However, while the court did state that, "[t]herefore, under federal law, it appears that [father's] criminal history requiring him to be a registered sex offender would constitute grounds to terminate his parental rights," the court expressly stated it was considering this as "guidance" as to whether placement with father would be detrimental to the minors *and* immediately followed its statement with, "That is not the only evidence that exists in this case."

In light of the juvenile court's explanation that it was acknowledging the federal law, not as controlling and directly applicable to the finding it was making at the hearing, and considering it preceded its findings with the express statement that its finding of detriment was based on the totality of the circumstances and then discussed at least seven

other reasons for its finding, we reject father's claim that reversal is required due to the court's improper reliance on federal law.

II. Substantial Evidence Supports the Juvenile Court's Finding

Father contends there is insufficient evidence to support the juvenile court's finding that placement of the minors in his care and custody would be detrimental to their emotional or physical well-being. We disagree.

Father complains that a large part of the court's decision focused on his past. Evidence of past conduct is probative of current conditions and current risk. (See *In re Laura F.* (1983) 33 Cal.3d 826, 833 ["a measure of a parent's future potential is undoubtedly revealed in the parent's past behavior with the child"]; *In re Rocco M.* (1991) 1 Cal.App.4th 814, 824.) Thus, in considering detriment, the court may consider the parent's past conduct, as well as present circumstances. (See *In re Laura F.*, at p. 833; *In re Cole C.* (2009) 174 Cal.App.4th 900, 917.)

Here, father's past is one of continuous criminal and violent behavior, resulting in repeated incarceration. Moreover, father did not provide for the care of his children during his incarceration, either before the Department became involved to protect the minors from mother or even after his children were removed. Additionally, after finally being released from incarceration, father continued to violate the terms of his parole during the pendency of these proceedings, resulting in at least one reincarceration. He was not even properly registered as a sex offender at the time of the hearing. This pattern of criminal behavior is evidence of father's instability and disinterest in meeting the minors' needs and/or his inability to do so.

Indeed, father has shown little to no interest in parenting the minors. He has never requested placement.[6] In fact, he specifically stated that he was seeking a limited visitation relationship with the minors like he has with D.W., not placement. We agree with the juvenile court's assessment that it would be detrimental to place the minors in the custody of a parent with whom not only do they have no bond, but one who has demonstrated little to no interest in actually parenting them. (See *In re A.S.* (2009) 180 Cal.App.4th 351, 363 [father's initial refusal to participate in the proceedings, whereabouts being unknown for a time, and failure to visit the children for six months, evidence of detriment of subsequent placement]; *In re P.A.* (2007) 155 Cal.App.4th 1197, 1212 [father's failure to maintain involvement in minor's life, including failure to provide support and having not seen the minor in several years, evidence of detriment of placement].) Of even more particular concern would be foisting K.W. upon father, as father has shown even less interest in this child to whom he is not biologically related and has never met. The record reflects that, when father was released from prison in 2011, he sought visitation with D.W. and J.W., but not K.W.[7] Father wrote to D.W. and J.W., but not K.W.[8] And father violently attacked mother while she was pregnant with K.W. These facts place K.W. at even greater risk of abuse or neglect in father's care.

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6 The closest father has come to seeking placement is to indicate he is "able" to take the minors. However, at the time of the hearing on remand, he had just moved into his girlfriend's apartment, without the manager's knowledge and without being added to the apartment lease. When questioned whether he would be able to have the minors live with him there, father indicated that "[t]here is always other opportunities," that he had other friends, and he was "pretty sure that [he] could find a place to live."

7 We further note that father's incarceration was a result of him having punched and shoved mother to the ground, causing her to lose consciousness (according to hospital records), while she was pregnant with K.W.

8 Father claimed to "believe" he "included" K.W.'s letters with J.W.'s. The juvenile court expressly found this testimony to be not credible.

Finally, father argues the juvenile court should not have considered his criminal conviction for assault with intent to commit rape because there is "no natural nexus" between the conviction and the current risk of harm to the minors. Again, we disagree. As explained by the juvenile court, J.W. has sexualized behavior problems. Father did not address his own sexual behavior issues in the manner in which both the social worker and the court believed was necessary to help assure J.W.'s needs would be met and she would not be at risk in his presence or care. Father admitted that he knew there had been sexual acting out between D.W. and J.W., yet had not taken any classes or courses that related to children who have been sexually abused or have sexually offended. His failure to address these matters not only places J.W. at risk, it further demonstrates father's lack of genuine interest in parenting his children.

Although the juvenile court provided further reasons for its finding that it would be detrimental to the safety, protection, physical, and emotional well-being of the minors, the foregoing is more than sufficient evidence to support the juvenile court's finding.

III. Juvenile Court Did Not Improperly Penalize Father for Delays

Father also complains that the juvenile court improperly penalized him for delays in the proceedings. We see no indication in the record of the court having penalized any party for delays.

Although father points to arguments made by counsel about his causing delays, the only comment the *court* made was its implication that the additional time needed for the hearing on remand for a finding of detriment was the fault of all parties, except the minors themselves. This comment, however, was made in connection with the juvenile court's recognition that it was assessing the minors as they were at the time of the

hearing, many years into the dependency proceedings, not as a basis for a finding of detriment.[9]

The other comment father attributes to the court as penalizing him for delays in the proceedings is simply a mischaracterization of the court's comment. During the court's discussion of its finding that father's lack of contact with his children presented a risk of detriment to them, should he be compelled to parent them, the court made the following remark, "[After the no-contact order was lifted], he was given little contact. He wrote to the children and the letters were mostly appropriate. His flippant testimony that he sent letters to [K.W.] in the letters with [J.W.] is certainly belied by his behavior of seeking visits and services with [J.W.] and [D.W.] throughout the life of this case and even by failing to speak up in court when the Court questioned counsel regarding his paternity status as to [K.W.]"

Contrary to father's characterization of this remark, the court was not criticizing father for any delays that were incurred due to his failure to initially acknowledge his paternity as to K.W. The court was stating that it found father's testimony that he "believe[d]" he "included" K.W.'s letters with J.W.'s, to be flippant and not credible, particularly in light of the other indications that father lacked interest in parenting, or developing a relationship, with K.W.—his nonbiological child.

Thus, father's contention that the juvenile court improperly penalized him for delays in the proceedings is not supported by the record.

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[9] We further reject father's attempt to place all the blame for the need for a remand hearing on everyone else, because they had notice based on father's brief in his second appeal that no finding of detriment had yet been made and, therefore, "a golden opportunity [had been provided] for the [Department], minors' counsel, or the juvenile court to put the train back on the track and prevent the delays" caused by the failure to make the requisite finding at the section 366.26 hearing. That "golden opportunity" was there for father's taking, as well.

DISPOSITION

The orders of the juvenile court are affirmed.

BUTZ, J.

We concur:

BLEASE, Acting P. J.

NICHOLSON, J.